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COMMISSION ON HUMAN RIGHTS
Fifty-second Session
Item 8 of the Provisional Agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written Statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[7 March 1996]

1. The International Federation of Leagues of Human Rights (FIDH) and its affiliate, the Viet Nam Committee on Human Rights, would like to congratulate Mr. Louis Joinet and the Working Group on Arbitrary Detention once again for their outstanding report on Viet Nam (E/CN.4/1995/31/Add.4). However, the organizations remain disturbed by the subsequent measures implemented by the Vietnamese authorities throughout 1995 in regard to the administration of justice and arbitrary detention. Whereas the FIDH and the Viet Nam Committee welcomed the excellent initiative taken by the Socialist Republic of Viet Nam in inviting the Working Group in 1994 and perceived it as a sincere attempt to introduce a policy of transparency and human rights improvements in Viet Nam, the organizations were deeply disappointed by the Vietnamese Government's sudden and brutal policy reversal: In 1995, the Socialist Republic of Viet Nam embarked on a course which contradicted each and every one of the Working Group's basic recommendations.

Lack of transparency in the administration of prison establishments

2. The administration of prison establishments remains desperately opaque. Prisoners are often denied all possibility of receiving visits: Venerable Thich Tri Tuu, Venerable Hai Thinh and Venerable Hai Tang, arrested in June 1993 for their involvement in a peaceful demonstration of 40,000 Buddhists in Hue on 24 May 1993, are denied all contact with fellow monks. Venerable Tri Tuu and Venerable Hai Thinh are detained alongside dangerous common criminals in Section B of Ba Sao Reeducation Camp, and Venerable Hai Tang is in P4 Camp, near Hanoi. Food and medicine parcels sent by prisoners' families are frequently confiscated by the prison authorities. Venerable Thich Quang Do, Secretary-General of the Unified Buddhist Church of Viet Nam (UBCV) currently detained in Ba Sao reeducation camp, has not been allowed to receive food and medicine parcels sent by his family, despite his poor state of health. The FIDH and the Viet Nam Committee fear that this lack of transparency may in fact be a deliberate policy to silence the protests of political prisoners. Pham Van Thanh, arrested in March 1993 and sentenced to 12 years' hard labour, described inhuman detention conditions in A 20 Camp, Phu Yen - one of the camps visited by the Working Group - and listed 127 political prisoners in need of medical care in a "white paper" which was smuggled out of the camp. Mr. Thanh and a hundred other political prisoners were transferred to camps in northern Viet Nam after they asked to meet the Working Group. Mrs. Thanh, who travelled from France to meet her husband in December 1995, was not allowed to see him.

No amendments of the Criminal Code in regard to crimes against national security

3. No measures have been taken so far to amend articles of the Criminal Code of the Socialist Republic of Viet Nam, which are incompatible with international standards. The definition of "crimes against national security" remains ambiguous, allowing leeway for dangerously arbitrary interpretation. Vietnamese, and even foreign nationals in Viet Nam live in permanent insecurity, never knowing when an act of legitimate peaceful expression may be branded as a crime. This ambiguity is particularly disturbing since it is evidently used by the Vietnamese authorities to reinforce suppression of political and religious dissent.

4. For example, national security offences were invoked against two eminent Buddhist scholars, Thich Tue Sy and Thich Tri Sieu, who were arrested in 1984. They are now serving 20 years' hard labour. At an unfair trial on 15 August 1995, charges of "sabotaging the policy of religious solidarity" led to convictions of three to five years' imprisonment for Thich Quang Do, Thich Khong Tanh, Thich Nhat Ban, Thich Tri Luc and lay-follower Nhat Thuong because they organized a relief mission for flood victims.

5. Only a few days earlier, a group of nine democratic activists led by Nguyen Dinh Huy received sentences of 4 to 15 years' for planning to organize a conference on economic development and democracy in Ho Chi Minh City in 1993. They were charged with "very serious violations of national sovereignty and national security". Even more recently, in December 1995, two communist intellectuals, Ha Si Phu and Le Hong Ha were arrested for holding and revealing State secrets. The document in question was a letter from Prime

Minister Vo Van Kiet to the Politburo debating issues at stake in the forthcoming Eighth Congress of the Vietnamese Communist Party. This document had circulated in Viet Nam and abroad for two or three weeks before the men's arrest. Ha Si Phu had previously made public statements in favour of wider democratization and an end to Marxism-Leninism. Le Hong Ha, former Interior Ministry Chief of Cabinet, had recently been expelled from the Communist Party for demanding that the Politburo officially apologize for the arbitrary arrest of 32 high-ranking cadres accused of "revisionism" (the Viet Nam Committee holds a list of these cadres at the Commission's disposal). The FIDH and the Viet Nam Committee further recall that the Working Group considered the wording of article 73 of the Criminal Code to be so vague (this also applies to the whole of Chapter I) that it could result in penalties being imposed not only on persons using violence for political ends, but also on persons merely exercising their legitimate right to freedom of opinion and expression, as in the case of the examples quoted above.

No relaxation of limitations or restrictions on the peaceful exercise of freedom of opinion

6. Articles 69 and 70 of the 1992 Constitution of the Socialist Republic of Viet Nam recognize the right to freedom of opinion, expression, assembly, association, peaceful demonstration and religion. In practice, however, the Vietnamese authorities systematically repress citizens who seek to peacefully exercise these legitimate rights.

7. The former Dean of the Hanoi Institute of Marxist-Leninist Philosophy, 77-year-old Hoang Minh Chinh, and 57-year-old Do Trung Hieu, a former high-ranking cadre in charge of religious affairs were arrested on 14 June 1995 and sentenced respectively to 12 and 15 months in prison for "taking advantage of democratic freedoms" by circulating papers "with malicious contents" and possessing "trumped up" documents. As the FIDH and the Viet Nam Committee informed the Sub-Commission in its written statement in August 1995, Do Trung Hieu was arrested after he criticized the Party's policy to suppress the Unified Buddhist Church of Viet Nam - a policy which he had helped to elaborate - and appealed for national reconciliation. Hoang Minh Chinh had circulated documents calling for the abolition of the Vietnamese Communist Party (VCP) monopoly and the instauration of democracy in Viet Nam. Another Communist dissident, Nguyen Ho, a party member for 56 years, was placed under close police surveillance and threatened with arrest in June 1995 for his criticisms of the VCP. He expressed surprise, for example, that the VCP was so swift to reconcile with former enemies such as the United States of America, whereas it refused to reconcile with its own people. He wrote: "Are dollars a condition for reconciliation?" Nguyen Ho is now under house arrest.

8. Dr. Nguyen Dan Que and Professor Doan Viet Hoat, both arrested in 1990, are respectively serving 20 years hard labour with five years' parole and 15 years' hard labour. The former, now detained in Z30A KB Camp, Xuan Loc province, called for democratic reforms in Viet Nam; the latter, now in Thanh Cam Camp, Thanh Hoa province, published four editions of a bulletin entitled "The Freedom Forum". Venerable Thich Huyen Quang, Patriarch of the UBCV, was arrested on 29 December 1994. He had been detained under house arrest since 1982 for alleged "anti-governmental activities". These activities consisted of public appeals for religious freedom and for government recognition of the

traditional UBCV. Venerable Thich Quang Do, arrested for his support of the UBCV relief mission mentioned above, was also charged with sending a 44-page criticism of Party policies to Secretary-General Do Muoi. Along with the four other Buddhists in the mission, Thich Quang Do was accused of "taking advantage of democratic freedoms to violate the interests of the State and social organizations".

9. Indeed, 1995 was characterized by the emergence of this new criminal charge "taking advantage of democratic freedoms to violate the interests of the State and social organizations". This vague, all-embracing charge has been systematically invoked to penalize political and religious dissenters in the exercise of their legitimate constitutional rights. It is an intolerable restriction on the right of freedom of opinion and expression.

10. The FIDH and the Viet Nam Committee find it truly unfortunate that, despite its formal commitments, the Socialist Republic of Viet Nam refuses to model its society upon the rule of law, and continues to disregard the observance of fundamental international standards. The organizations also profoundly regret that, this year at least, the Vietnamese authorities have taken no heed of the Working Group's suggestions that a second visit should be made to Viet Nam, or that an amnesty of long-term reeducation-camp detainees be granted in order to "promote the national reconciliation sought by the Government". The FIDH and the Viet Nam Committee consider the question of arbitrary detention in Viet Nam to be a matter of urgent priority, and urge the Commission on Human Rights to take firm and appropriate action.

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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[11 March 1996]

1. The International Federation of Human Rights (IFHR) and its Northern Ireland correspondent, the Committee on the Administration of Justice (CAJ), remain concerned about a number of human rights issues in Northern Ireland related to detention, imprisonment and the ill-treatment of detainees. We believe the resolution of these issues is central to any lasting peace in Northern Ireland.

2. These issues have been raised at the United Nations Human Rights Committee (1995 and 1991), the United Nations Committee against Torture (1995 and 1991), the United Nations Commission on Human Rights in February (1993 and 1994), the United Nations Sub-Commission in August (1992, 1993 and 1994) and the European Committee for the Prevention of Torture (1994). During the past year, as in other years, there have also been significant rulings against the United Kingdom Government at the European Court of Human Rights. The IFHR and the CAJ are concerned at the lack of an appropriate response from

the United Kingdom Government. Indeed, the Government's apparent disregard for the conclusions of these prestigious bodies was exemplified by the response of a Home Office Minister of State on 26 October 1996 when she said in the House of Lords, "We do not plan any specific changes in our arrangements for the protection of human rights in the UK in light of the [Human Rights] Committee's views."

3. During an 18-month ceasefire by the main paramilitary groups, no significant steps were taken to address the human rights situation in Northern Ireland. For example, the Government has continued to derogate from the International Covenant on Civil and Political Rights and the European Convention on Human Rights. This suggests that the Government's approach to emergency legislation is to require exacting justification of its removal rather than exacting justification of its continued existence, as required by international law. While the IRA ceasefire has recently ended and its future remains uncertain, the specific concerns of the IFHR and the CAJ with relation to access to legal advice, the ill-treatment of detainees and the use of lethal force cannot be left unaddressed. Further, they have recently been echoed by the European Court of Human Rights while adjudicating on pre-ceasefire incidents.

4. The existence of paramilitary violence does nothing to diminish the obligations of the United Kingdom Government to live up to the international standards to which it is bound. Indeed, we would stress that the satisfactory resolution of the political problems of Northern Ireland is not possible without clear and effective protection of human rights.

Detention under emergency legislation

5. Detainees held under emergency legislation in Northern Ireland can be kept incommunicado for up to 48 hours, denied access to their lawyers for this time and for further periods of 48 hours thereafter. The effective removal of the "right to silence" means that any detainee may have inferences of guilt drawn from a failure to speak or give information during detention.

6. Denial of legal access in these conditions has recently been found to contravene the European Convention on Human Rights (Murray v. United Kingdom (1996)). The IFHR and the CAJ are concerned that it also contravenes paragraph 8 of the Basic Principles on the Role of Lawyers.

7. Detainees can be held for up to seven days without being brought before a court. This power has been found to be in breach of the European Convention on Human Rights and the United Kingdom Government has derogated from the Convention and the International Covenant on Civil and Political Rights in respect of it.

8. The United Kingdom Government has indicated that it is considering the Murray decision, but has not suggested what if any changes it intends to make. However, at the time of writing Parliament is about to renew the emergency legislation regime virtually unamended.

9. The Government has consistently failed to implement comprehensive and effective safeguards to prevent the abuse of detainees held under emergency

legislation. In 1978 the European Court of Human Rights found in the case of Ireland v. United Kingdom that the United Kingdom was subjecting detainees in Northern Ireland to inhuman and degrading treatment. In 1991 the United Nations Committee against Torture looked at renewed allegations and was concerned at the absence of effective safeguards to prevent ill-treatment. In response to international and domestic pressure, the Government has recently announced that it will introduce video recording in the holding centres. The IFHR and the CAJ remain concerned that this does not constitute sufficient progress, and that without audio taping, given past allegations of psychological abuse, video taping may do little more than change the nature of the abuse.

10. The IFHR and the CAJ call for the immediate closure of the holding centres where detainees are questioned and for the repeal of emergency legislation. This call was echoed in 1995 by the Human Rights Committee and the Committee against Torture. We are particularly concerned that the United Kingdom Government has failed to act upon these recommendations.

Transfer of prisoners

11. The IFHR and the CAJ remain concerned at the difficulties surrounding the transfer of Irish prisoners from Britain despite the recent ratification by the Irish Government of the Convention for the Transfer of Sentenced Persons. We are also alarmed at the deterioration in conditions for Irish republican prisoners held in Britain which has, ironically, occurred since the ceasefire. These conditions have had a deleterious effect on their health and well-being, and have drawn the criticism of Irish parliamentarians from across the political spectrum. Lawyers have also expressed concern that restrictions on access to their clients have seriously undermined their ability to effectively represent them.

Use of lethal force

12. The IFHR and the CAJ note that detention occurs not just in prisons and holding centres, but where police detain a section of the community against their will in specific streets. Likewise, extrajudicial killings which render detention unnecessary constitute the most extreme form of torture and punishment available to Governments.

13. The IFHR and the CAJ remain concerned that police officers and soldiers in Northern Ireland have been responsible for killing some 350 people since 1969. There is particular concern at the lack of accountability for these deaths. Some 29 prosecutions have been brought and only 6 have resulted in convictions. Two of the four, convicted of murder, were released after two and three years respectively - sentences which are unparalleled in brevity.

14. Concern over the inadequacy of legal standards governing the use of lethal force was reinforced last year by the ruling of the European Court of Human Rights in McCann, Farrell, and Savage v. United Kingdom that the shooting dead of three unarmed IRA members in Gibraltar by British soldiers was a violation of the right to life.

15. Particularly worrying is the Government's response to this decision which has been to assert publicly that it will do nothing as a result. The IFHR and the CAJ believe that this shows a wanton and reprehensible disregard for international bodies, and the standards which they uphold.

16. The IFHR and the CAJ are also concerned at the actions of the police in relation to an incident which occurred in August 1995 when potentially lethal plastic bullets were used by police on crowds (including children). In this incident the crowd was sealed into small streets with the police on one side and a river on the other. A number of plastic bullets were fired causing serious injury. According to information gathered by the IFHR and the CAJ, some of these bullets were fired at close range. The IFHR and the CAJ submit that plastic bullets, which in the past have killed 14 people, including 7 children, are not an acceptable form of crowd control.

17. The IFHR and the CAJ believe that there should be a comprehensive inquiry into the law on the use of lethal force, actions by security force members, and the investigation of extrajudicial killings. This should measure existing law and practice against internationally agreed standards such as the European Convention on Human Rights, the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Bill of rights

18. In 1995 the Human Rights Committee urged the Government to examine the need for a bill of rights. We suggest that the above catalogue of problems points to the need for a comprehensive bill of rights for Northern Ireland.

Conclusion

19. The IFHR and the CAJ respectfully request the Commission to ensure that the United Kingdom Government complies fully with its international obligations. Effective protection and respect for human rights are crucial to a just and lasting settlement of the Northern Ireland conflict.

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